

1 STEVEN G. KALAR
2 Federal Public Defender
3 ANGELA M. HANSEN
4 Assistant Federal Public Defender
5 1301 Clay Street, Suite 1350N
Oakland, CA 94612
Telephone: (510) 637-3500
Facsimile: (510) 637-3507

6
7 Counsel for Defendant CRUZ MENDOZA

8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 UNITED STATES OF AMERICA,) NO. 07-CR-265 JST; 16-CR-410 JST
12 v. Plaintiff,)
13) STIPULATION AND ~~PROPOSED~~ ORDER
14) TO CONTINUE HEARING DATE TO
15) JANUARY 13, 2017 AND TO EXCLUDE
16) TIME UNDER THE SPEEDY TRIAL ACT
17 MELVIN CRUZ MENDOZA,)
18 Defendant.) Date: December 9, 2016
Time: 9:30 a.m.
19 _____
20)
21)
22)
23)
24)
25)
26)
27)
28)

The above-captioned matters are set on December 9, 2016, before this Honorable Court for status hearings. The parties jointly request that the Court continue these matters to January 13, 2017, at 9:30 a.m., and that the Court exclude time under the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), through January 13, 2017.

Mr. Cruz Mendoza has been charged in a Probation Form 12 Petition alleging that he violated the terms of his supervision in a 2007 illegal reentry case. He has also been charged in a one-count indictment alleging illegal reentry, a violation of 8 U.S.C. § 1326. Mr. Cruz Mendoza was arraigned on the indictment on October 24, 2016.

Counsel for Mr. Cruz Mendoza needs time to assess her client for competency and plans to have an expert interview Mr. Cruz Mendoza at the jail. In addition, defense counsel has obtained psychiatric records and records from the Santa Rita Alameda County jail that the expert will need to examine and review. For these reasons, defense counsel needs additional time to obtain a psychological examination and determine what recommendations, if any, defense counsel will make to the Court concerning Mr. Cruz Mendoza's competency. Finally, defense counsel needs time to assess the federal sentencing guidelines and to determine if there are any motions that could be filed on Mr. Cruz Mendoza's behalf. For these reasons, the defense requests additional time to prepare, and the parties agree that it is appropriate to continue this case until January 13, 2017. The parties have contacted Malik Ricard, the probation officer assigned to this case, and he is available on the requested date.

The parties stipulate and agree that the ends of justice served by this continuance outweigh the best interest of the public and the defendant in a speedy trial. The parties further agree that the failure to grant this continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Accordingly, the parties agree that in case number 16-CR-410 JST the period of time through January 13, 2017, should be excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for effective preparation of defense counsel, taking into account the exercise of due diligence.

DATED: December 6, 2016

Respectfully submitted,

/s/
ERIN CORNELL
Assistant United States Attorney

/s/
ANGELA M. HANSEN
Assistant Federal Public Defender

[PROPOSED] ORDER

Based on the reasons provided in the stipulation of the parties above, and for good cause shown, the Court hereby FINDS:

1. Given that the defense needs additional time investigate issues related to Mr. Cruz Mendoza's competency and to have an expert assess the defendant;
 2. Given that the defense needs time to review the discovery and to assess this case for motions;
 3. Given that the defense needs time to assess the sentencing guidelines;
 4. Given that these above-listed tasks are necessary for the defense preparation of the case that the failure to grant the requested continuance would unreasonably deny counsel for plant the reasonable time necessary for effective preparation, taking into account the exercise diligence; and
 5. Given that the ends of justice served by this continuance outweigh the best interest of the and defendant in a speedy trial;

Based on these findings, it is ORDERED that the status hearing date of December 9, 2016, is vacated and reset for January 13, 2017, at 9:30 a.m. It is FURTHER ORDERED that time is excluded in case 16-CR-410 JST, pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), through January 13, 2017.

DATED: December 6, 2016

HONORABLE JON S. TIGAR
United States District Judge